THE HON'BLE SRI JUSTICE K.C. BHANU

On Wednesday, the twenty fourth day of August

Two thousand and Five.

W.P.No.20589 of 2001

Perumal Bhaskar, s/o Late T. Perumal, Hindu, aged about 25 years, Occ: Unemployee, resident of House No.23-179, Sanjay Gandhi Nagar, Kongareddypalli Post, Chittoor – 517 001, Chittoor District.

……Petitioner

And

A.P.State Electricity Board, represented by its Member Secretary now called as Chairman-cum-Managing Director, A.P.Transmission Corporation, Vidyutsoudha, Hyderabad

and others.

…Respondents.

O R D E R:

This writ petition is filed by the petitioner to declare the action of the respondents in rejection of the claim of the petitioner for his appointment in any suitable post on compassionate grounds, under the impugned proceedings Lr.No.Adm./A.1/D.No.4886/99 dated 27.7.1999 issued by the 1st respondent basing on the proceedings Memo dated 14.7.1999 of the 2nd respondent and based on the Memo No.AS(pen)/PO.V(RD)/I/115/96 dated Nil-06.1999, as illegal and arbitrary.

Before adverting to the question as to whether the impugned proceedings issued by the respondents suffers from any legal infirmity requiring any interference as such by this Court, in exercise of its writ jurisdiction, it may be necessary, briefly, to note the relevant facts leading to the filing of this writ Petition. The petitioner pleads that on 6.3.1981, the parents of the petitioner, in

the presence of elders, gave him on adoption to T.Perumal. Thereafter, the said adoption deed was registered in the Sub-Registrar's office on 6.4.1994. The same fact was mentioned in the registered document that adoption was taken place on 6.3.1981. The petitioner further submits that the his adoptive father by name Perumal died on 24.6.1996 and the wife of deceased Perumal also died 30 years prior to 1981. The petitioner also obtained Succession Certificate from the Principal Junior Civil Judge, Chittoor as legal heir of late T.Perumal, which is filed along with the other material papers before this Court and so the petitioner is claiming the employment on compassionate grounds as the deceased T. Perumal died while in service in the respondents department.

Heard the learned counsel for the petitioner and the learned standing counsel for respondents.

The learned counsel for the petitioner contended that as per Section-6 of the Hindu Adoption and Maintenance Act, 1956 (for short 'the Act'), certain conditions have been prescribed and those conditions have been fulfilled in this case and the adoption deed dated 6.3.1981 was taken place in the presence of elders. Therefore, it need not be registered and it can be on a plain paper also.

On the other hand, the learned standing counsel appearing on behalf of the respondents contended that since adoption deed dated 6.3.1981 does not contain the signature of the adoptive father and further the adoption deed dated 6.4.1994 was came into existence just before the death of the adoptive father. As per the rules, the petitioner is not eligible for employment on compassionate grounds.

The specific case of the petitioner is that on 6.3.1981, his parents in the presence of elders gave him on adoption to T.Perumal. Thereafter, the said adoption deed was registered in the Sub-Registrar's office on 6.4.1994. A mention was made in the registered document that adoption was taken place on 6.3.1981. Section-6 of the Act, runs thus:

> "**Section-6: Requisites of a valid adoption:**
>
> No adoption shall be valid unless:-

i. the person adopting has the capacity, and also the right to take in adoption;

ii. the person giving in adoption has the capacity to do so:

iii. the person adopted is capable of being taken in adoption; and

iv. the adoption is made in compliance with the other conditions mentioned in this chapter."

Section-7 of the Act deals with to take any male person in adoption and the proviso of the Section speaks that it requires the consent of the wife is necessary before adoption.

The learned counsel for the petitioner contends that the wife of Perumal died 30 years prior to 1981. Section-10 of the Act deals with the persons who may be adopted. According to the learned counsel for the petitioner, the Act does not prescribed the adoption should be registered. Therefore, the date on which the actual adoption was took-place is a determined factor. As per memo of the respondents dated 22.8.1998, the adoption should take-place legally at least five years prior to the date of demise of the Board employee. Since the adoption in this case taken-place in the year 1981, the petitioner has fulfilled the above condition. The grounds on which the petitioners' case has been rejected are that the adoption deed dated 6.4.1994 was not taken place prior to the death of Perumal i.e. on 26.6.1996. If the actual date of adoption taken into consideration, it is in the year 1981. Therefore, the first condition is fulfilled.

The other condition for rejection of the case of the petitioner is that adoption deed dated 6.3.1981 supposed to be on plain paper submitted by the dependent is not acceptable and the said deed do not contain the signature of T.Perumal. The Act is not prescribed that the adoptive parents should sign on the requisite papers. So in the absence of any such conditions in the Act, it shall, the impugned proceedings are not in accordance with law.

Therefore, the impugned proceedings are quashed; the matter is

remanded to the respondents to consider the case of the petitioner afresh within a period of three months from the date of receipt of the copy of this Order. The Writ Petition is allowed accordingly. No order as to costs.

JUSTICE K.C. BHANU

24th August 2005

BCS